

BOARD OF DESIGN REVIEW MINUTES

October 30, 2003

CALL TO ORDER: Chairman Mimi Doukas called the meeting to order at 6:34 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

ROLL CALL: Present were Chairman Mimi Doukas; Board Members Hal Beighley, Cecilia Antonio, Ronald Nardoza, Jennifer Shipley, and Jessica Weathers. Board Member Stewart Straus was excused.

Senior Planner John Osterberg, Senior Planner Scott Whyte, Associate Planner Liz Jones, Senior Transportation Engineer Don Gustafson, City Attorney Bill Kirby and Recording Secretary Sandra Pearson represented staff.

VISITORS:

Chairman Doukas read the format for the meeting and asked if any member of the audience wished to address the Board on any non-agenda item. There was no response.

OLD BUSINESS:

CONTINUANCES:

Chairman Doukas opened the Public Hearing and read the format of the hearing. There were no disqualifications of Board Members. No one in the audience challenged the right of any Board Member to hear any agenda items or participate in the hearing or requested that the hearing be postponed to a later date. She asked if there were any ex parte contact, conflict of interest or disqualifications in any of the hearings on the agenda.

I. DR 2003-0005 – CANYON TOWN CENTER RETAIL BUILDING DESIGN REVIEW

(Continued from September 4, 2003)

The applicant requests Design Review 3 approval for the site, including a proposed speculative retail building, approximately 6,000 square feet in size, and associated parking and landscaping improvements.

Ms. Shipley disclosed that although she is a former employee of the landscape architect for this proposal, this would not affect her ability to participate in a fair and impartial decision regarding this proposal.

Chairman Doukas briefly explained the hearing process.

Associate Planner Liz Jones presented the Staff Report and provided a brief summary of the proposal as provided in the Staff Report. Referring to page 4 of the Staff Report, she made corrections to lines 5 and 6 of the paragraph pertaining to the 120-Day Requirement, as follows: "...a full ~~60~~ **48** days. Therefore, the City must take final action on the application on or before ~~January 12~~ **December 31**, 2003." Concluding, she submitted the materials board, recommended approval with certain Conditions of Approval and offered to respond to questions.

Chairman Doukas requested that Ms. Jones clarify the situation with regard to shared access with the gas station.

Observing that a lease agreement had been established for a shared access on SW Lombard Avenue approximately 15 years ago, Ms. Jones advised Chairman Doukas that this lease had expired October 24, 2003 and that the applicant would provide further information with regard to this situation.

Chairman Doukas noted that while the Oregon Department of Transportation (ODOT) is recommending that the applicant provide access to the gas station, they are not making any recommendation with regard to the actual access point to SW Lombard Avenue.

APPLICANT:

STEVE PREECE, representing the property owner, *Preece and Floberg*, introduced himself and the architect, Tomio Fukiauwa, and clarified that the current access utilized by the gas station is approximately 75% on the property of the applicant.

TOMIO FUKIAUWA, representing *Group Mackenzie*, explained that the parcel is currently vacant land, and more specifically a portion of the Canyon Town Center that has not yet been developed. He provided illustrations of the site and the existing shared driveway, as well as the proposed building, and explained that the applicant had attempted to design the new building to be compatible with the existing shopping center. Observing that the proposed building would be primarily utilized as retail stores, he described the colors, pedestrian access, parking, landscaping, and the zoning guideline that pertains to the setback, and offered to respond to questions.

Ms. Weathers questioned whether this building would be subdivided or would involve only one tenant.

Mr. Preece explained that this building would be a multi-tenant building with potentially two to three tenants, adding that there are no tenants at this time.

Ms. Weathers requested clarification regarding the distance between the building and the proposed Washington County Commuter Railway.

Mr. Fukiauwa explained that the applicant had contacted Tri-Met to work out the proposed railway, adding that this had resulted in moving the building to address the setback requirement.

6:50 p.m. – Ms. Antonio arrived.

Ms. Shipley expressed her opinion that the proposed grass species selected is rather large in consideration of the proposed placement.

Mr. Fukiauwa advised Ms. Shipley that he would confer with the landscape architect with regard to her concerns.

Ms. Shipley questioned whether there is a missing tree in the middle tree grate.

Mr. Fukiauwa assured Ms. Shipley that the applicant would provide any required landscaping and trees.

Chairman Doukas referred to the entrance on the northwest corner of the building, and questioned whether this would serve as an emergency access.

Mr. Fukiauwa informed Chairman Doukas that this entrance would be functional.

Chairman Doukas requested clarification with regard to the number of tenants that are anticipated in this building.

Mr. Preece explained that the applicant anticipates two or three, and no more than four tenants to occupy this space.

Chairman Doukas noted that although the CMU is shown to be painted, it appears to be a fairly durable material.

Mr. Fukiauwa pointed out that the proposal includes opening up this area for exposure to rest of shopping center, emphasizing that they want to blend in with the remainder of the center.

Ms. Weathers questioned whether there had been any discussion with regard to individual tenant entrances onto SW Lombard Avenue, which is a major pedestrian route.

Noting that most retail stores do not have front and back entrances, Mr. Preece observed that the trains would be running right there.

PUBLIC TESTIMONY:

LARRY DERR, attorney representing *Josselson, Potter & Roberts* on behalf of the individuals involved in the Union 76 Service Station on the corner of SW Canyon Road and SW Lombard Avenue, adding that his primary clients are Bob and Katie Barman, who operate the station. He explained that he is also authorized to speak on behalf of the property owners *Phillips Conoco*, emphasizing that he represents the property owner, landlord, and tenant for this property. Observing that these individuals are not opposed to development, he explained that there is concern with the design due to access issues. Noting that this proposal would close the entire shared driveway, he added that while 60% to 70% of this access is on the shopping center property, 15% to 20% of the access is located on the gas station property. He referred to the Local Improvement District (LID) that rebuilt SW Lombard Avenue and mentioned that this access had been built by the City of Beaverton in conjunction with reciprocal shared easements. He noted that several documents creating those agreements had never been recorded in a permanent fashion. He explained that the current situation involves a neighbor proposing to develop their property and create an adverse impact upon their property, emphasizing that closing this access to SW Lombard Avenue and the shared access leaves only the SW Canyon Road access to the property. He referred to a letter from ODOT stating the obvious, pointing out that having no alternative access would create problems.

Mr. Derr mentioned a second issue, observing that the building would be located within three feet of the property line and that it could be possible to move the driveway south toward SW Canyon Road. He pointed out that the third issue involves getting fuel trucks in and out of the gas station and explained that the current configuration allows the fuel trucks to access from SW Canyon Road and out onto SW Lombard Avenue. He emphasized that the proposal would leave less than

25 feet of access, noting that a turning radius of 40 or 50 feet is necessary for the fuel trucks. He pointed out that the applicant's written report referred to 1989 when this development was approved, noting that this property was part of this development and showed a circulation pattern. He explained that this is not entirely true, adding that while the Board of Design Review had approved that plan in April 1988, in August 1988, the applicant had submitted letter indicating that Building F, which is parallel to SW Lombard Avenue, has been deleted and will not be built. He submitted a copy of a letter from *Commercial Design Associates* (CDA) to be entered into the record. Referring to Development Code Section 40.20.15.3.C.3, he explained that the proposal will not obstruct an existing approved or Comprehensive Plan identified vehicular, pedestrian, or bicycle connection. He noted that the Staff Report focuses only on the Comprehensive Plan identified connections. He referred to Development Code Section 40.20.15.3.C.4, observing that the location, size, shape, height, and spatial arrangement of the uses and structures proposed by the applicant are compatible, with consideration given to increased setbacks, common driveways and other similar considerations. He emphasized that the burden is upon the applicant to demonstrate compatibility with the existing uses and recommended continuance of the open shared access at the east end and alignment of the building in such a way that the entire shared driveway on SW Lombard Avenue could remain, adding that the applicant is obligated to provide this access. Concluding, he requested that the record be held open for seven days, noting that staff has indicated that his client could return after resolving issues with the applicant, and offered to respond to questions.

Mr. Beighley questioned the time period that it is anticipated that this service station would occupy this site.

Emphasizing that he is neither the landlord nor the tenant, Mr. Derr noted that there has been no discussion of it going away any time soon. He expressed his opinion that this facility is well-situated, serves a need, and that while it is a non-conforming use, all service stations are conditional uses, adding that it was originally an outright use.

Mr. Nardozza questioned when the lease would expire.

Mr. Derr advised Mr. Nardozza that the lease had expired approximately one week ago.

Chairman Doukas noted the request for an extension to leave the record open, adding that it would be good to resolve issues between the applicant and private property owners.

APPLICANT REBUTTAL:

STEVE PFEIFFER, land use attorney for the applicant, responded to Mr. Derr's testimony, adding that while he does not necessarily disagree with Mr. Derr's assessment of the problems, these are problems that have been created by his clients. He discussed a private transaction with the applicant subject to the lease, adding that Mr. Derr's clients had rejected the opportunity to extend their lease because they no longer wanted to bear the responsibility of the cost of the additional land. He clarified that the lease had terminated their right to use that curb cut and all rights of access through that shared access, noting that while the applicant had very clearly offered them the opportunity the applicant had deliberately chosen to create the situation. He explained that in addition to wanting to utilize this land at no cost, denying the applicant the use of what is leaseable space, the applicant would be dealing with having fuel trucks traveling through their retail space. He noted that the applicant is willing to meet with these individuals in an attempt to find a solution, adding that it is necessary to keep this continuance to a week. He clarified that any solution would involve a voluntary private solution on the part of the applicant, adding that there is no criteria that would support the provision of either of those access points as a part of this process. Referring to an existing access mentioned by Mr. Derr, he emphasized that this access no longer exists on paper or legally and that the applicant has the right to terminate that access on their private property and will do so, if necessary, to protect their rights. He expressed his opinion that the applicant should not be required to resolve problems that the property owner has created, adding that they have refused any opportunity to resolve this problem. Referring to the access location on SW Lombard Avenue, he noted that there is land available on City property to relocate that access further south, although the property owners may lose their preferred location. Concluding, he concurred with a continuance and offered to respond to questions.

Observing that it would be necessary for the applicant to sign a Waiver of Extension, Ms. Jones recommended that the opponent document the maneuvering area required for the fuel trucks, adding that this should be documented on a site plan of the gas station, demonstrating the amount of space necessary to allow for truck maneuvering.

Mr. Beighley **MOVED** and Mr. Nardoza **SECONDED** a motion to **CONTINUE** DR 2003-0005 – Canyon Town Center Retail Building Type 3 Design Review until a date certain of November 6, 2003.

Motion **CARRIED**, unanimously.

Senior Planner John Osterberg observed that the applicant for the next application would arrive at 7:30 p.m.

7:23 p.m. through 7:32 p.m. – recess.

NEW BUSINESS:

PUBLIC HEARINGS:

I. CRESCENT HILL APARTMENTS PHASE III

The applicant, Commerce Investment Incorporated, is proposing to construct a third phase to the existing Crescent Hill Apartments, including the addition of two single-family residential lots.

A. DR 2003-0024 – TYPE 3 DESIGN REVIEW

A Type 3 application for Design Review for the construction of five apartment buildings (four three-story buildings and one two-story building) for a total of 40 apartment units, including the review of proposed architecture, parking, site circulation, and site landscaping.

B. ADJ 2003-0003 – TYPE 2 MINOR ADJUSTMENT

A Type 2 application for Minor Adjustment for adjustment to the height standard of the R-2 zone applicable to proposed three-story apartment buildings. The R-2 zone height standard is 35 feet, and the applicant proposes to construct four three-story apartment buildings at approximately 38.5 feet in height.

C. ADJ 2003-0004 – TYPE 2 MINOR ADJUSTMENT

A Type 2 application for Minor Adjustment for adjustment to the 100-foot lot depth standard of the R-5 zone applicable to one of the two proposed single-family residential lots.

D. TPP 2003-0022 – TREE PRESERVATION PLAN

The applicant proposes a Tree Preservation Plan for the removal of up to 20 trees that have a diameter (dbh) of ten inches or greater.

E. LLA 2003-0006 – LOT LINE ADJUSTMENT

A Type 1 application for Land Division for a lot line adjustment to the lot boundaries of Tax Lots 300 and 301 to create two single-family residential lots that would be located within the south portion of the site where adjacent to exiting single-family lots. Proposed single-family residential lots would be accessed from SW Laurelwood Avenue, and the proposed multi-family apartments would be accessed from SW Apple Way.

Senior Planner Scott Whyte presented the Staff Reports and briefly described the proposal for the third phase of Crescent Hill Apartments, including 40 units and five buildings. He observed that by providing a full half-street improvement to the SW Laurelwood Avenue frontage, the applicant would be eligible for TIP fees and TIFF credits and that this improvement would not necessitate an additional Condition of Approval. He referred to page 17 of 18 of the Facilities Review recommended Conditions of Approval, Specifically Condition of Approval No. D-2, which addresses improvements to the frontage on SW Laurelwood Avenue, to be constructed to Neighborhood Route Standards. Observing that there have been no public comments in response to these applications, he presented the material board. Concluding, he recommended approval of all five applications with associated Conditions of Approval and offered to respond to questions.

APPLICANT:

MALCOLM McIVER, representing *Commerce Investment Inc.*, offered to respond to specific questions prior to presenting the proposal.

Mr. Beighley questioned the rationale for developing the two single-family lots.

Mr. McIver responded that out of consideration for the neighbors to the south, who expressed concern with higher density, the applicant has proposed several single family lots as a buffer, adding that the lots would be sold to a home builder.

Mr. Nardozza requested that Mr. McIver provide some orientation to the site through some of the major street names.

Mr. McIver indicated SW Beaverton/Hillsdale Highway, SW Laurelwood Avenue, SW Scholls Ferry Road, and the Fred Meyer Shopping Center on the illustration.

Ms. Shipley questioned whether the wetland and water quality fill area are still located outside the property.

Mr. McIver explained that the water quality area is located outside the current lot line, adding that it would be on the same line with completion of Lot Line Adjustment on Tax Lot 1100.

Mr. McIver briefly described the project, which consists of 40 units in five buildings, noting that the majority of the units face onto SW Laurelwood Avenue. He explained that the applicant is attempting to create an active building street environment along SW Apple Way, adding that the building design would match the existing Crescent Hill Apartments. He pointed out that the units include garages and are more like townhomes than apartments. He discussed the grading, landscaping, and open space by buildings S and R, noting that this would break up the density. He discussed the buffering between the apartments and single-family

uses, observing that the applicant would be filling a wetland and that required permits and mitigation have been addressed. Noting that the wetland is located near the confluence of Vermont Creek and Fanno Creek, he pointed out that this project would begin in advance or concurrent with the apartments. He mentioned a small amenity area just south of Building R, adding that this area would feature a sundeck, space for a barbeque, and a small waterfall. Noting that a six-foot cedar fence would be installed along the southern property line between the multi-family and single-family lots, he mentioned that the proposed parking provides one space more than code allows and would be reduced. He described pedestrian connections via sidewalk to be installed along SW Laurelwood Avenue, adding that lighting would be primarily provided from the exterior lights on the building. He explained that there is no anticipated impact on traffic during a.m. and p.m. peak hours, emphasizing that the applicant has worked with the neighborhood to mitigate the impact of the multi-family development on the existing single-family homes. He pointed out that the original proposal has reduced the buildings from three to two two-story buildings, noting that the City's request for a half-street improvement was contested based upon rough proportionality and minimal impact on SW Laurelwood Avenue. He explained that although the applicant had reached an agreement with the City, at Facilities Review they were informed that they would have to install a monolithic curb and storm drain system, adding that they had agreed to construct the half-street improvement. He mentioned that there are four applications besides the Design Review, an Adjustment for building height, a Tree Plan, a Lot Line Adjustment, and an Adjustment to the lot depth standard. Concluding, he offered to respond to questions.

Chairman Doukas questioned whether there had been any discussion with regard to emergency access connecting the parking lot to SW Laurelwood Avenue.

Mr. McIver advised Chairman Doukas that this issue had been discussed with Mr. Dalby of Tualatin Valley Fire & Rescue (TVF&R), adding that his comment was that although they would like this access, it would not be required because the current Development Code requires a sprinkler system in all apartment buildings.

Chairman Doukas referred to the architectural elevation and photographs, observing that the palate is bland but consistent with the rest of the neighborhood.

PUBLIC TESTIMONY:

FRAN SCEARCE stated that she owns the property on the south side of this development along with her husband, Robert, observing that her concern is that along with the widened road, they do not inherit a garish red barrier. She pointed out that they would prefer curbing, striping, or another alternative that is compatible with the aesthetics of the neighborhood.

Chairman Doukas observed that the barrier might involve a safety issue, adding that staff may have comments.

Senior Transportation Planner Don Gustafson explained that it may not be necessary to install a barricade, noting that this is not a Condition of Approval.

Ms. Scarce pointed out that the neighbors are appreciative of Mr. McIver's policy of working with the neighbors.

Staff had no further comments with regard to these applications.

The public portion of the Public Hearing was closed.

Mr. Beighley **MOVED** and Mr. Nardozza **SECONDED** a motion to **APPROVE** DR 2003-0024 – Crescent Hill Apartments Phase III Design Review, based upon the testimony, reports and exhibits presented during the public hearings on the matter and upon the background facts, findings and conclusions found in the Staff Report dated October 23, 2003, including Conditions of Approval Nos. 1 through 13, and additional Condition of Approval No. 14, as follows:

14. The applicant provide staff with the revised plan site plan showing the half street improvement, the location of the street trees, and how the berm will be landscaped.

Motion **CARRIED** by the following vote:

AYES: Beighley, Nardozza, Antonio, Shipley, Weathers, and Doukas.
NAYS: None.
ABSTAIN: None.
ABSENT: Straus.

Mr. Beighley **MOVED** and Ms. Shipley **SECONDED** a motion to **APPROVE** ADJ 2003-0003 – Crescent Hill Apartments Phase III Adjustment/Height Standard, based upon the testimony, reports and exhibits presented during the public hearings on the matter and upon the background facts, findings and conclusions found in the Staff Report dated October 23, 2003, including Condition of Approval No 1.

Motion **CARRIED** by the following vote:

AYES: Beighley, Shipley, Antonio, Nardozza, Weathers, and Doukas.
NAYS: None.
ABSTAIN: None.
ABSENT: Straus.

Mr. Beighley **MOVED** and Mr. Nardozza **SECONDED** a motion to **APPROVE** ADJ 2003-0004 – Crescent Hill Apartments Phase III Adjustment/Lot Depth, based upon the testimony, reports and exhibits presented during the public hearings on the matter and upon the background facts, findings and conclusions found in the Staff Report dated October 23, 2003, including Conditions of Approval Nos. 1 and 2.

Motion **CARRIED** by the following vote:

AYES: Beighley, Nardozza, Antonio, Shipley, Weathers, and
Doukas.
NAYS: None.
ABSTAIN: None.
ABSENT: Straus.

Mr. Beighley **MOVED** and Ms. Shipley **SECONDED** a motion to **APPROVE** TP 2003-0022 – Crescent Hill Apartments Phase III Tree Plan II, based upon the testimony, reports and exhibits presented during the public hearings on the matter and upon the background facts, findings and conclusions found in the Staff Report dated October 23, 2003, including Conditions of Approval Nos. 1 through 4.

Motion **CARRIED** by the following vote:

AYES: Beighley, Shipley, Antonio, Nardozza, Weathers, and
Doukas.
NAYS: None.
ABSTAIN: None.
ABSENT: Straus.

Mr. Beighley **MOVED** and Mr. Nardozza **SECONDED** a motion to **APPROVE** LLA 2003-0006 – Crescent Hill Apartments Phase III Lot Line Adjustment, based upon the testimony, reports and exhibits presented during the public hearings on the matter and upon the background facts, findings and conclusions found in the Staff Report dated October 23, 2003, including Conditions of Approval Nos. 1 through 3.

Motion **CARRIED** by the following vote:

AYES: Beighley, Nardozza, Antonio, Shipley, Weathers, and
Doukas.
NAYS: None.
ABSTAIN: None.
ABSENT: Straus.

APPROVAL OF MINUTES:

The minutes of August 14, 2003, as written, were submitted. Chairman Doukas asked if there were any changes or corrections. Mr. Beighley **MOVED** and Ms. Antonio **SECONDED** a motion that the minutes be adopted as written and submitted.

The question was called and the motion **CARRIED** unanimously, with the exception of Ms. Shipley and Ms. Weathers who abstained from voting on this issue.

The minutes of August 28, 2003, as written, were submitted. Chairman Doukas asked if there were any changes or corrections. Being the only Board Member in attendance at this meeting, Chairman Doukas accepted the minutes as written and submitted.

The question was called and the motion **CARRIED** unanimously.

The minutes of September 4, 2003, as written, were submitted. Chairman Doukas asked if there were any changes or corrections. **MOVED** and **SECONDED** a motion that the minutes be adopted as written and submitted.

The question was called and the motion **CARRIED** unanimously, with the exception of Mr. Nardoza, who abstained from voting on this issue.

MISCELLANEOUS BUSINESS:

Chairman Doukas questioned the status of the Design Review Text Amendment update.

Mr. Whyte advised Chairman Doukas that the Public Hearing for the Design Review Text Amendment update has been continued to November 19, 2003.

Mr. Beighley pointed out that the November 6, 2003 Meeting will be held in the 2nd floor conf room.

The meeting adjourned at 8:06 p.m.